

**Genentech, Inc.**

1 DNA WAY  
South San Francisco, CA 94080  
(650) 225-1000  
Facsimile: (650) 952-9881

**FACSIMILE TRANSMITTAL**

**RECEIVED**  
**CENTRAL FAX CENTER**

JUN 24 2004

**OFFICIAL**

DATE: June 24, 2004

Please deliver the following page(s) to:

NAME: Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Fax No.: (703) 872-9306

FROM: Wendy M. Lee  
Registration No.: 40,378

RE: U.S. Serial No.: 09/863,101  
Our Docket No.: P1829R1

Number of Pages including this cover sheet - 13

CERTIFICATION OF FACSIMILE TRANSMISSION UNDER 37 CFR § 1.8	
I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.	
Anna Kan	
Type or print name of person signing certification	
Signature	Date: 6/24/2004

**CONFIDENTIAL NOTE**

The documents accompanying this facsimile transmission contain information from GENENTECH, INC. which is confidential or privileged. The information is intended only for the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this faxed information is strictly prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the return of the original documents to us and the retransmission of them to the intended recipient.

If you do not receive all pages, please notify Anna Kan at (650) 225-2830.

Enclosed for consideration and entry on the record in connection with the above application are: this cover page, RCE Transmittal(dup), Amendment, Extension of Time (dup) and Fees \$770 and \$950.

PTO/SB/30 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**Request  
For  
Continued Examination (RCE)  
Transmittal**

Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	09/863,101
Filing Date	5/18/01
First Named Inventor	Robert D. Mass
Art Unit	1642
Examiner Name	Misook Yu
Attorney Docket Number	P1829R1

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**  
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- ii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/ Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other \_\_\_\_\_

2. **Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other \_\_\_\_\_

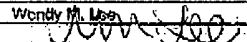
3. **Fees**

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.  
The Director is hereby authorized to charge the following fees, or credit any overpayments, to

- a. ☒ Deposit Account No. 07-0630
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other \_\_\_\_\_
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

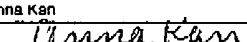
**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	Wendy M. Lee	Registration No. (Attorney/Agent)	40,378
Signature		Date	6-24-04

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	Anna Kan	Date	6-24-04
Signature			

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

COPY

PTO/SB/30 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request  
For  
Continued Examination (RCE)  
TransmittalAddress to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	08/863,101
Filing Date	5/18/01
First Named Inventor	Robert D. Mass
Art Unit	1642
Examiner Name	Misook Yu
Attorney Docket Number	P1829R1

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Rely Brief previously filed on \_\_\_\_\_

ii. ☐ Other \_\_\_\_\_

b. ☒ Enclosed

i. ☒ Amendment/Reply

ii. ☐ Affidavit(s)/Declaration(s)

iii. ☐ Information Disclosure Statement (IDS)

iv. ☐ Other \_\_\_\_\_

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(f) required)

b. ☐ Other \_\_\_\_\_

3. **Fees**

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 07-0630

i. ☒ RCE fee required under 37 CFR 1.17(e)

ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other \_\_\_\_\_

b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	Wendy M. Kan	Registration No. (Attorney/Agent)	40,378
Signature	<i>Wendy M. Kan</i>	Date	6-24-04

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	Anna Kan
Signature	<i>Anna Kan</i>
Date	6-24-04

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED  
CENTRAL FAX CENTER

OFFICIAL

JUN 24 2004

Patent Docket P1829R1

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Robert D. Mass Serial No.: 09/863,101 Filed: May 18, 2001 For: GENE DETECTION ASSAY FOR IMPROVING THE LIKELIHOOD OF AN EFFECTIVE RESPONSE TO AN ERBB ANTAGONIST CANCER THERAPY	Group Art Unit: 1642 Examiner: Misook Yu Confirmation No. 9233 Customer No. 09157  <small>Certificate of Facsimile Transmission Under 37 CFR § 1.8 In accordance with CFA § 1.6(d), this correspondence addressed to Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 is being transmitted to facsimile No. (703) 872-9308</small>  June 24, 2004 <i>Anna Kan</i> Anna Kan
---	--

AMENDMENT TO ACCOMPANY A RCE

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the final Office Action mailed August 25, 2003, reconsideration of the present application is respectfully requested in view of the following amendments and remarks. A notice of appeal was received by the Patent Office on January 29, 2004. This amendment is accompanied by a 3 month extension of time.

Please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks begin on page 3 of this paper.